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Sand Diego, CA 92122

In re Application of :
LI, Chuan :
Serial No.: 10/068,664 :Decision on Petition
Filed : February 6, 2002 :

This letter is in response to the letter filed on June 19, 2007 requesting reconsideration of the restriction requirement. It is presumed that the Petition from requirement for restriction was made under 37 C.F.R. 1.144 and has been treated as such.

BACKGROUND

A review of the file history may be found in the previous petition decision.

DISCUSSION

In this petition, applicants assert that the plasmids are related by design, function and the requirement for two particular linker sequences. The petition asserts that no other natural or man-made plasmids except those presented in this application contain exactly all these two linker sequences. The petition further asserts that these two linker sequences are an intrinsic connection of these plasmids.

These statements has been considered but found to be non-persuasive for the following reasons. First, the specification, sequence listing and claims, as filed, fail to disclose the two linkers specifically or the concept of using CG-rich linkers in general. Second, SEQ ID NO: 37 (1906 bp) and SEQ ID NO: 39 (2315 bp) are clearly different sequences, and absent a sequence alignment it is not clear how they are specifically related, or that the two particular linkers are actually required by all of claims 26-40. Moreover, the particular CG-rich sequences are not disclosed in the sequence listing as linkers. Thus, the arguments are not commensurate with the claims nor with the specification as filed.

Thus, for the reasons provided above, the requirement to the elected invention, the plasmid having SEQ ID NO: 37, has been affirmed.

DECISION

The petition is **DENIED** for the reasons set forth above.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner for consideration of the papers filed 12 October 2007.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

A handwritten signature in cursive script, appearing to read "Christopher Low".

Christopher Low
(Acting) Director, Technology Center 1600